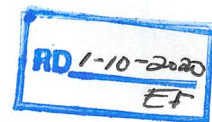


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BROOKLYN OFFICE



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOSE RIVERA, on behalf of himself and FLSA
collective plaintiffs,

Plaintiffs,

-against-

A & M PROSPECT DELI, INC. d/b/a A & M
PROSPECT DELI; FABI ALI MOHAMMED;
and HASAN SHAHBAIN,

Defendants.

-----X
AMON, United States District Judge:

NOT FOR PUBLICATION
MEMORANDUM & ORDER
18-CV-01124 (CBA) (VMS)

Plaintiff Jose Rivera commenced this action pursuant to the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 201 et. seq. (“FLSA”), and the New York Labor Law (“NYLL”), alleging that he and the FLSA Collective Plaintiffs are entitled to recover: (1) unpaid overtime, (2) liquidated damages, (3) statutory penalties (pursuant to NYLL only), and (4) attorneys’ fees and costs. (See Docket Entry (“D.E.”) # 25 (“Second Amended Complaint” or “SAC”).¹) On December 16, 2019, the Honorable Vera M. Scanlon, United States Magistrate Judge, issued a thorough and well-reasoned report and recommendation recommending, sua sponte, that Rivera’s action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b), due to his failure to prosecute the action. (See D.E. # 53 (the “R&R”).)

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, “a

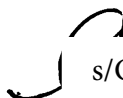
¹ Rivera filed a Complaint, an Amended Complaint, and a Second Amended Complaint. All three alleged claims pursuant to FLSA and NYLL for unpaid overtime, liquidated damages, statutory penalties, and attorneys’ fees and costs. (See generally D.E. # 1; D.E. # 17; SAC.)

district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted).

The Court has reviewed the record and, finding no clear error, adopts the R&R as the opinion of the Court. Accordingly, the Court dismisses Rivera’s action without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to close the case and to mail a copy of this Memorandum and Order to Mr. Rivera at the address that was provided for him by his former counsel, (see D.E. # 49): Jose Rivera, 849 Flushing Avenue, #10J, Brooklyn, NY 11206.

SO ORDERED.

Dated: January 9, 2020
Brooklyn, New York

 s/Carol Bagley Amon

Carol Bagley Amon
United States District Judge